



WASATCH COUNTY

County Council Staff Report

Zoning Code Text Amendment

ITEM 1 Core architecture, representing the Church of Jesus Christ of Latter Day Saints, is requesting an amendment to Wasatch County Code §16.21.16 and §16.26 that will affect how outdoor lighting is regulated by the County. (DEV-7336; Doug Smith)

APPLICATION SUMMARY

Applicant: Curtis Miner, representing the LDS Church

Hearing Date: 19 April 2023

Related Applications: None

Affected Zone(s): Countywide

Applicable Code Section(s): 16.21.16 (Outdoor Lighting Regulations), 16.26 (Sign Regulations)

BACKGROUND

As was stated in the previous staff reports the proposal is a lighting code that, if approved, would regulate lighting on a countywide basis.

The proposed amendments to the lighting code went to the Planning Commission on March 30th. After a lengthy public comment period the item was forwarded to the County Council. The County Council heard the item on Wednesday April 5th. The County Council reviewed the proposed lighting code, listened to public comment, closed public comment and continued the proposal to the April 19th meeting. The motion by Erik Rowland and seconded by Steve Farrell included the requirement that staff look into the following items:

- Method for measuring candelas
- Curfews
- Holiday lighting
- Requiring compliance on residential
- Enforcement
- Definition of uplighting

The motion was unanimously approved.

In the following analysis each of the above items are addressed in the above listed order.

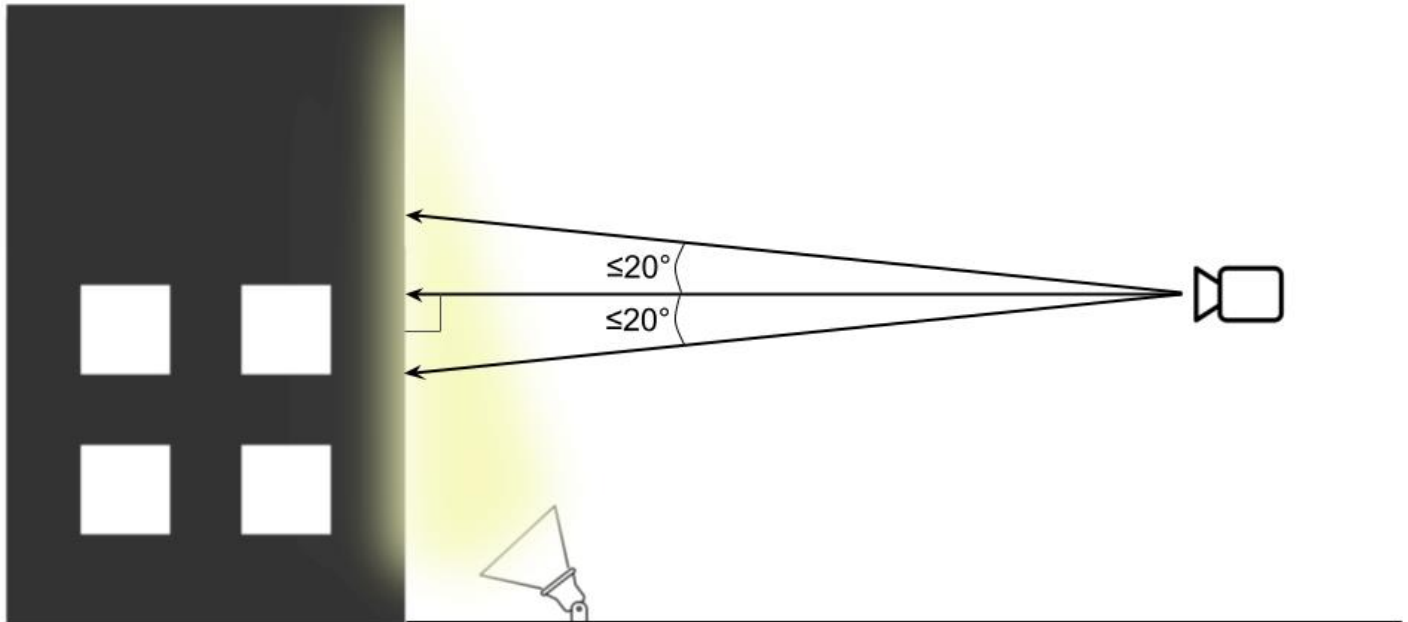
ANALYSIS

The following language has been added to the code in section (L, 3).

-METHOD FOR MEASURING CANDELAS-

Luminance of a surface shall be measured in a line of sight direction to the observer at an angle perpendicular to the surface being measured. The final measurement shall be the median value of three (3) measurements. A margin of error

not to exceed twenty (20) degrees from perpendicular viewing angle is acceptable for purposes of measurement. The device used to measure the luminance shall have a margin of error of not more than ten (10) percent. Measurements associated with enforcement actions may only be taken by the planning director or his designee. Measurements shall be taken at a distance of not less than 10 feet from the surface, to avoid anomalies due to polished, reflective or irregular materials.



-CURFEWS-

Below is the updated section regarding lighting curfew. This was not in the copy presented in the meeting on April 5th. The red underlined language is added to the language presented at the April 5th meeting.

I, 6 General Curfew: All exterior lighting shall be extinguished one hour after sunset; or within one (1) hour of the close of normal business hours; or at the conclusion of usual operations and remain extinguished until no later than one (1) hour before sunrise. Businesses whose normal operating hours are twenty-four (24) hours per day are exempt from these provisions. Conditional uses may require stricter standards as determined by the land use authority.

-HOLIDAY LIGHTING-

There may be some confusion regard holiday lighting. We have never enforced holiday lighting and the proposed code would not regulate residential holiday lighting. The code would only regulate commercial holiday lighting. If the Council determines that the code should regulate residential lighting the holiday portion of the code would most likely apply. Concerns were raised regarding the constitutionality of limiting lighting for religious holidays. The below language has not changed from the language proposed in the draft code. The planning department, as far as I am aware, has never received a complaint regarding holiday lighting. The proposed language is as follows:

Holiday lighting, for a period not to exceed sixty (60) days, whether consecutive or non-consecutive, in one calendar year. The total quantity of light meeting this definition permitted is not limited, but excessive displays are liable to be declared public nuisances. All holiday lighting must be fully extinguished each night between the hours of 11 P.M. and 5 A.M. during the allowed period.

-COMPLIANCE FOR RESIDENTIAL-

The only restriction on residential lighting in the propose code is prohibiting light trespass of direct light. Pros of implementing a more comprehensive code regulating residential outdoor lighting:

- Places limits on an important source of light pollution
- Can help defuse potential neighbor disputes by articulating clear standards
- Helps maintain the visual aesthetic of neighborhoods and desirable nighttime ambience
- With or without a provision requiring amortization of existing non-conforming residential lighting, proper review of residential lighting plans for new construction plus replacement of non-compliant fixtures at end of life in theory will eventually bring all lighting into compliance
- Would bring the code closer to compliance with IDA intent

Cons of regulating residential outdoor lighting:

- Public opposition to regulations affecting private property
- The public may ignore the regulations after enactment creating larger numbers of enforcement actions, which takes planning staff, legal staff, court staff, and enforcement officer resources.
- Amortization complications if amortization is proposed
- Residential lighting fixture swaps do not need building permits
- Many residential light fixtures are easily altered by the end user to defeat design elements like shielding
- Most off the shelf lighting fixtures do not meet full cutoff requirements
- Invasiveness of enforcement and entering private residential property to determine the compliance of outdoor lighting
- Added costs for fixtures, inspections, enforcement

-ENFORCEMENT-

Section 16.01.14 and 16.01.15 are the most direct of the enforcement sections of the code (see attachment A). In addition to the enforcement section of the code additional enforcement options for the county include; 16.23.06 conditional uses and development agreements. Also, permits are not issued on properties that either do not demonstrate compliance with applicable code, or which have known compliance issues. WCC 16.01.09. There are many incentives for property owners to obtain required permits, and costs and penalties to not obtaining required permits.

In short we have the following ways to enforce code compliance:

- The entire sections of 16.01.09, 16.01.14 and 16.01.15 are regarding enforcement
- There is an entire section of the development agreement devoted to enforcement
- If a commercial use has a business license the renewal of the license can be withheld for code violations
- Conditional uses have an enforcement provision for violations

-DEFINITION FOR UPLIGHTING-

The following definition is proposed to be added to the definitions section of the lighting code:

Uplighting: Lighting designed and installed in such a manner as to directly cast its light at any angle or toward any direction above the local horizontal plane.

POTENTIAL MOTION

At the April 5th meeting the following findings were not presented but were part of the staff report. If the Council wants to move forward with approval of the ordinance (ordinance 23-01) they should adopt the following findings. If the council is going to deny the proposal additional findings for denial should be made.

Motion for Approval with the following findings and resolving the following specific findings, which are to be implemented by staff in the ordinance:

Findings:

1. The existing lighting code has been in place, in a somewhat similar form, since 2003 with several amendments throughout the years.
2. The current code requires a full 90 degree cutoff directed down, and the primary application has mostly been used to regulate street lighting.
3. Attached residential lighting and non-residential building lighting has not been strictly enforced with the code.
4. Application to amend the code was made by the LDS Church. As part of that application the LDS Church submitted a proposed lighting code. The version of the code proposed by the LDS Church allowed for building uplighting.
5. The County is proposing a version of the code that is more comprehensive than the LDS Church proposed code and the existing code and allows for regulated uplighting.
6. The existing code allows any amount of light on a site or building without limits as long as it is directed down.
7. The proposed code places a cap on the total site lighting.
8. The proposed code does not count, as part of the cap, the minimum amount of lighting required by the IBC, FAA and minimum safety lighting for parking lots as regulated using the recommended standards of the IES.
9. The code proposes to use the IES (Illuminating Engineering Society) recommended standards as the requirements for lighting of areas like the parking lots and other pathways not regulated by the IBC. The IES is a nationally recognized organization in lighting standards.
10. The proposed code takes advantage of new technology and best management practices that allows for LED lighting, dimmers, photo cells, timers, motion sensors, directional cutoff and kelvin adjustability.
11. The code is for the entire County and if approved will be used in areas that are proposing institutional uses, multi-story hotels, retail, office areas and other developments.
12. The General Plan requires the County to: "Preserve the views of the night sky and reduce the health impacts of artificial light by requiring all development to have dark sky compliant lighting" (Policy 1.1.7).
13. The purpose and intent statements of the existing code and proposed code is to; "not unreasonably interfere with the reasonable use and enjoyment of property and astronomical observations within the county. It is the intent of this section to encourage, through regulation of types, kinds, constructions, installation and uses of outdoor electricity, lighting practices and systems which will reduce light pollution, conserve energy, provide consistent lighting standards, reduce maintenance and replacement costs while increasing nighttime safety, utility, security and productivity".
14. If uplighting is going to be allowed, an updated lighting code needs to be in place prior to a site plan and conditional use approval of the temple so that the allowed lighting and associated impacts of the lighting can be

determined and mitigated.

15. The proposed code brings the County closer to compliance with the best management practices (BMP's) as required of municipalities by the International Dark Sky Association requirements for accreditation as International Dark Sky Communities.
16. The proposed amendment balances the health, safety, welfare interests of adequate lighting required under the IBC, FAA, and recommendations of the IES with the welfare interests in reducing light pollution.
17. The staff report is adopted except as modified by, respectively, the Council or the Planning Commission.
18. All public hearings and noticing requirements under the Wasatch County Code and the Utah Code for adopting or modifying a land use regulation have been followed by the County.
19. Written comments have been considered by the planning commission and forwarded to the council.
20. The proposed amendment is in the interest of the public, and is consistent with the goals and policies of the Wasatch County General Plan.
21. The Wasatch County Council, as the legislative body, has broad discretion for amendments to the Wasatch County Code.

Possible specific findings to be implemented by staff in the executed ordinance, in accordance with the options in the staff reports:

1. Approval of CCT (Kelvin levels) 3000 Kelvin or 3500 Kelvin.
2. Determination on the use of candelas or lumens and a limit of 27 candelas per square meter if candelas are used. If lumens are used 8 lumens per square foot.
3. If the recommendation for regulating light trespass in the proposed code be maintained.
4. A determination on sign curfew times. Sign lighting extinguished after regular business hours and remain unlit until one hour before sunrise?
5. A determination on duration of time for motion sensor lights to remain on. Allow for a 5 minute trigger duration?
6. Adopt the proposed curfew language as originally proposed or the new language including a possible 1 hour after sunset provision and possible stricter standards for conditional uses?
7. Adopt the proposed holiday lighting, which only regulates non-residential properties.
8. Determination on enforcement on residential lighting.
9. Determination if the enforcement provisions outlined above, including 16.01.09, 16.01.14, conditional use section of the code and development agreement is sufficient.
10. Approve the provided definitions for uplighting?
11. Approve the provided method for measuring candelas?

ALTERNATIVE ACTIONS

The following is a list of possible motions the Council can take. If the action taken is inconsistent with the potential findings listed in this staff report, the Council should state new findings.

1. Recommendation for Approval with Conditions. This action can be taken if the Council finds that remaining issues can be resolved with conditions.
2. Continue. This action can be taken if the Council needs additional information before making a recommendation, if there are issues that have not been resolved, or if the application is not complete.
3. Denial. This action may be taken if the Council finds that the proposed code amendment is not appropriate at this time or is not supported by the General Plan.

Exhibits:

- A. Enforcement options
- B. Updated proposed code
- C. Ordinance 23-01
- D. IDA eligibility analysis
- E. List of possible changes from the current code

EXHIBIT A – Enforcement options

16.01.09: PERMITS TO COMPLY WITH LAND USE REGULATIONS

1. Permits shall not be granted for the construction, reconstruction or alteration of any building or structure, or for the moving of a building onto a lot, or for the change of the use of any land, building or structure if such construction, alteration, moving or change in use violates any of the provisions of Wasatch County Code, including, without limitation, Title 14 of the Wasatch County Code.
2. No sewer service line and/or wastewater treatment facility, no water service line and/or water facility, or electrical utilities shall be installed to serve such premises if such use violates this title.

16.01.14: ENFORCEMENT ACTIONS

The provisions of this title shall be administered by the planning and zoning department, under the supervision of the county legislative body. The enforcement officer shall investigate alleged violations of this title, and initiate enforcement actions if violations are found to exist. The enforcement officer shall be authorized to make examination and investigation of all real property in the county, as allowed by law, to determine whether the responsible person is complying with the provisions of this title. The county attorney's office shall file such actions in court as are necessary. The failure of the county to enforce the requirements of this title shall not operate to waive or stop the county from pursuing subsequent enforcement actions. Permits issued in violation of this title shall have no force or effect.

1. Responsibility for Violation of Title: Anyone found to have committed a zoning violation is a responsible person and is responsible for correcting zoning violations under this title. In the event a responsible person cannot be ascertained after the exercise of due diligence, the county may also institute proceedings as allowed by this section or law against the property on which a zoning violation has been committed.
2. Finding of Zoning Violation: If, after conducting an investigation, the enforcement officer has determined that a zoning violation exists, the enforcement officer shall attempt to have the responsible person correct the violation in accordance with this section. The officer may pursue any remedy or combination of remedies available pursuant to this title, state law or common law in order to correct the violation. Nothing in this section shall be interpreted to prohibit the county from engaging in its standard prosecution practices without first having to comply with the provisions of this section. In the event a responsible person cannot be ascertained, the county shall post notice on the property on which a zoning violation has been committed and may institute proceedings against the property itself as allowed by law.
3. Notice Of Zoning Violation:
 1. Except as otherwise provided by this title or county ordinance, whenever a zoning violation is found to exist, the enforcement officer shall first serve written notice to the responsible person before other remedies in this section are taken. The notice of zoning violation shall contain:
 1. The location of the zoning violation, if the same is stationary;
 2. A description of what constitutes the zoning violation;
 3. A list of the acts necessary to correct the zoning violation ("corrective action");
 4. The warning period, including the completion date, in which the responsible person may cure the violation before civil fines are assessed for the violation;
 5. A statement of the actions the county will take if the violation is not corrected within the warning period; and

6. A statement that the responsible person may enter into a voluntary correction agreement during the warning period to prevent further action by the county.
 2. The written notice shall be delivered personally or sent via registered mail to the responsible person's address, as shown on the records of the county recorder, and to any other person who may be responsible for the violation.
 3. The written notice shall serve to start any warning periods provided in this section, commencing upon receipt of notice. If the violation remains uncured once the warning period expires, the civil penalties shall begin to accrue in accordance with this section.
 4. In cases where the enforcement officer determines that a delay of enforcement would pose a danger to the public health, safety or welfare, or would otherwise compromise the effective enforcement of this title, the enforcement officer may seek immediate enforcement under subsection F2 of this section without prior written notice.
4. Civil Fines:
1. Civil fines shall be assessed to the responsible person for uncorrected zoning violations beginning on the following day after the completion date as stated in either the notice of zoning violation or the voluntary correction agreement. The amount of such fine shall be fifty dollars (\$50.00) for each day the zoning violation continues after the completion date.
 2. Daily Violation: Each day a violation is continued or maintained after the completion date shall give rise to a separate civil fine. All applicable fines shall cease the following day after the enforcement officer receives written notice from the responsible person that the corrective action is complete. Within five (5) business days, the enforcement officer shall inspect and pass off the corrective action as completed, and, if not completed, fines shall be applied retroactively to the date notification was received and shall continue to accrue in accordance with this section.
 3. The civil fine shall be cumulative and may not be waived by the enforcement officer. Payment of a civil fine pursuant to this section does not relieve the responsible person from the duty to correct the zoning violation. The civil fine constitutes a personal obligation of the responsible person. Any civil fine assessed must be paid to the county within thirty (30) calendar days of incurrence.
 4. The county attorney's office, upon approval by the county manager, is authorized to take appropriate action to negotiate the amount of the civil fine, collect the fine, determine the time period in which the fine shall be paid, and take any other action necessary to resolve the fine.
 5. Collection: The county is authorized to take appropriate action to collect the civil fines by any and all appropriate means, whether in personam or in rem. The county may collect reasonable attorney fees and costs incurred in collecting the civil fine where allowed by law. The county may collect pre- and post-judgment interest on such civil fines.
 6. The incurrence of civil fines under this section shall not limit the available remedies of the enforcement officer or the county attorney's office under this section.
5. Voluntary Correction Agreement: The enforcement officer may enter into a voluntary correction agreement with the responsible person. A voluntary correction agreement is a contract between the county and responsible person in which the responsible person agrees to correct the zoning violation within a specified time and according to specified conditions. If the responsible person complies with the terms of the agreement, the

county will take no further actions against the responsible person, unless the zoning violation recurs. This option is a privilege and not a right, and, if the circumstances warrant, the enforcement officer may choose to correct the zoning violation using one or more of the other procedures set forth in this title or law.

1. Contents: The agreement shall contain the following:

1. The name and address of the responsible person;
 2. The street address of the zoning violation, or a description sufficient to identify the building, structure, premises or land upon or within which the zoning violation exists;
 3. A description of the zoning violation;
 4. The necessary corrective action to be taken, and a date or time by which correction or abatement must be completed ("completion date"). The completion date shall not be longer than six (6) months from the date the agreement is entered into;
 5. An agreement by the responsible person that the county may inspect the premises as may be necessary to determine compliance with the voluntary correction agreement;
 6. An agreement by the responsible person that, if the terms of the agreement are not met, the county may:
 1. Issue a civil fine or criminal citation;
 2. Correct the zoning violation, recover its costs and expenses, and place a lien on the property; and/or
 3. Pursue any other legal remedy available;
 7. An agreement by the responsible person acknowledging that he/she waives the right to appeal the enforcement officer's finding that a zoning violation exists and the right to appeal the specific corrective action required by the voluntary correction agreement; and
 8. An acknowledgement by the responsible person that failure to comply with the voluntary correction agreement may be grounds for criminal prosecution.
2. Extension of Time: The enforcement officer may grant an extension of time for correcting the zoning violation pursuant to the voluntary correction agreement if the responsible person has shown due diligence and/or substantial progress in abating the zoning violation but unforeseen circumstances render correction or abatement under the original conditions unattainable.
3. Temporary Stay: The enforcement officer will delay further enforcement actions and monetary fines will be temporarily suspended once an agreement is entered into. However, the responsible person shall still be liable for any accrued fines.
4. Failure to Comply: Failure to complete the corrective action by the completion date shall constitute a separate violation and shall be handled in accordance with this section, except that no further notice need be given before enforcement proceedings are initiated. The county may proceed on the violation pertaining to failure to comply with the voluntary correction agreement and/or the original zoning violation. Monetary fines shall continue or initiate the following day after the completion date.

6. Abatement By County:

1. Once the enforcement officer has exercised due diligence in obtaining compliance from the responsible person in accordance with this section and this title, and the responsible person fails to correct the violation, the county is authorized to enter upon the subject property and remove, correct or abate the condition which is subject to the zoning violation. The county shall mail the responsible person an itemized statement of all expenses incurred in the removal and destruction and request payment within sixty (60) days. The county may, but is not required to, seek judicial process as it deems necessary to effect the removal, correction or abatement of such condition.
2. Emergency Abatement: Whenever a zoning violation constitutes an immediate and emergent threat to the public health, safety or welfare, or to the environment, the county, when feasible and allowed by law, may summarily and without prior notice correct or abate the condition. Notice of such abatement, including the reason for it, shall be given to the responsible person as soon as reasonably possible after the correction or abatement.
3. Confiscation of Property: During an abatement proceeding, any personal property constituting a zoning violation may be confiscated as part of the abatement process. Any property that has been confiscated will be held pending resolution of the violation. The owner may recover the property upon showing that the zoning violation has been corrected or that substantial efforts, as determined by the enforcement officer, have been made to correct the zoning violation; provided, however, that the property owner pay the cost of storage of the property. If, after ninety (90) days of the property being confiscated, the property owner fails to claim the confiscated property, and after the county complies with the requirements of Utah Code Annotated section 77-24a-5, as currently amended, the county may dispose of the property, including sale at auction, disposal, etc., and seek to collect the cost of storage from the property owner. The county may also pursue any other remedy as allowed by law.
4. Costs Declared Lien: Any and all costs incurred by the county in the abatement of a zoning violation under the provisions of this title or other county ordinance shall constitute a lien against the property upon which such zoning violation existed, which lien shall be filed, proven and collected as provided for by law. Such lien shall be notice to all persons from the time of its recording and shall bear interest at the legal rate thereafter until satisfied.
5. County Not Civilly Liable: Neither the county, nor its officers, agents and employees, shall be civilly liable to any responsible person for the abatement of a zoning violation or to any other person for the failure to abate a zoning violation.
7. Civil Enforcement: Appropriate actions and proceedings may be taken by the county in law or in equity to prevent any violation of this title, to prevent unlawful construction, to recover damages, including the cost, if any, of correcting the zoning violation, to restrain, correct or abate a violation, and to prevent illegal occupancy of a building, structure or premises.
8. Nonexclusive Remedies, Building Permits, Etc.: The County may take any or all of the actions listed in this title to abate, enjoin or correct a zoning violation, to punish any person or entity that creates, causes or allows a zoning violation to exist, and to recover damages for violation of this title or other county zoning ordinances. The abatement of a zoning violation does not prejudice the right of the county or any person to recover damages or penalties for its past existence. Notwithstanding the procedures outlined in this section, the county may enforce this title and other zoning violations through the withholding of building permits and revocation of development approvals, permits and licenses. The county may also withhold building permits for the construction of buildings or structures located on lots subdivided or sold in violation of the provisions of this title and refuse to issue

certificates of occupancy or to extend roads or other facilities or service to any parcel created in violation of this title.

16.01.15: PENALTIES, ELEMENTS OF ZONING VIOLATION

It shall be unlawful and declared a zoning violation for any responsible person to use any land, building or structure for a purpose or use not allowed in the zone in which such land, building or structure is located, or to violate any of the provisions of this title. Any responsible person, committing a zoning violation or violating or causing the violation of the provisions of this title, shall be guilty of a class C misdemeanor and, upon conviction thereof, may be punished by a fine of not more than seven hundred fifty dollars (\$750.00) per offense, or by imprisonment in the county jail for a period not more than ninety (90) days, or by a combination of said fine and imprisonment. Any responsible person committing a zoning violation or violating or causing the violation of the provisions of this title shall also be responsible for the civil penalties under this title. Each and every day a violation occurs shall constitute a separate offense.

16.23.06: TRANSFERABILITY, TIME FOR PERFORMANCE, EXPIRATION, MODIFICATION AND REVOCATION

- D. Modification or Revocation of Conditional Use Permit: The planning commission shall hold a hearing upon the question of modification or revocation of a conditional use permit granted pursuant to the provisions of this section. Notice of said hearing shall be made at the same time and in the same manner as required to obtain the conditional use permit. A conditional use permit may be modified or revoked if the planning commission finds one or more of the following:
1. The use permit was obtained by mistake of fact, misrepresentation or fraud;
 2. The use for which the permit was granted is not being exercised;
 3. The use for which the use permit was granted has ceased or has been suspended for six (6) months;
 4. The conditions imposed upon said use permit have not been complied with or maintained;
 5. The use produces impacts not anticipated, recognized or foreseen during the approval process, and these impacts cannot be mitigated so as to meet the general standards and findings required for issuance of the conditional use permit;
 6. The use has been so expanded or intensified that the impacts have exceeded those foreseen during the approval process, and these impacts cannot be mitigated so as to meet the general standards and findings required for issuance of the conditional use permit;
 7. The use is detrimental to the health, safety or general welfare of persons residing in the vicinity or injurious to property in the vicinity, except that a change in the market value of real estate shall not be considered an injury to property. In the event that this subsection applies to the point where it is determined by the terms of this title that a nuisance exists, abatement of the nuisance shall be an available remedy.

DEVELOPMENT AGREEMENT ENFORCEMENT OPTIONS:

Section 6. DEFAULT; TERMINATION; ANNUAL REVIEW

6.1 General Provisions.

(a) Defaults. Any failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other Party, unless such period is extended by written mutual consent, shall constitute a default under this Agreement. Any notice given pursuant to the

preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 30-day period. Upon the occurrence of an uncured default under this Agreement, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a default, terminate this Agreement. If the default is cured prior to termination, then no default shall exist and the noticing Party shall take no further action. The County Land Use and Development Act or the Wasatch County Code shall govern the appeal of any approval, denial, or failure to approve a land use application by the County.

6.2 Review by County

(a) Generally. The County may at any time and in its sole discretion request that Developer demonstrate that Developer is in full compliance with the terms and conditions of this Agreement. Developer shall provide any and all information reasonably necessary to demonstrate compliance with this Agreement as requested by the County within thirty (30) days of the request, or at a later date as agreed between the Parties.

(b) Determination of Non-Compliance. If the County finds and determines that Developer has not complied with the terms of this Agreement, and noncompliance may amount to a default if not cured, then the County may deliver a Default Notice pursuant to Section 6.1(a) of this Agreement. If the default is not cured timely by Developer, the County may terminate this Agreement.

6.3. Default by the County.

In the event the County defaults under the terms of this Agreement, Developer shall have all rights and remedies provided in Section 6.1 of this Agreement and provided under Applicable Law.

6.4. Enforced Delay; Extension of Time of Performance.

Notwithstanding anything to the contrary contained herein, neither Party shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, terrorist acts, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environmental regulations, or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Changes in the market, or the financial standing of the Parties shall not serve as a basis for excused performance. Upon the request of either Party hereto, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

6.5 Annual Review.

Developer and the County shall (at the discretion of the County) meet annually to review the status of the Project and to review compliance with the terms and conditions of this Agreement.

SIGN SECTION: 16.14.11: OTHER REQUIREMENTS

F. Maintenance: All signs, structures, parking areas, landscaping or other portions of the development that are visible from either an adjoining residential use, or from a major street or highway, shall be kept in good repair and maintenance at all times. Failure to do so may be grounds for revocation of a conditional use permit.

EXHIBIT B – Updated proposed code

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16.21.16: ~~OUTDOOR~~ EXTERIOR LIGHTING REGULATIONS

The purpose of the ~~outdoor~~ exterior lighting regulations is to establish standards for all ~~outdoor~~ exterior lighting so that its use does not unreasonably interfere with the reasonable use and enjoyment of property and astronomical observations within the county. It is the intent of this section to encourage, through regulation of types, kinds, constructions, installation and uses of outdoor electricity, lighting practices and systems which will reduce light pollution, conserve energy, provide consistent lighting standards, reduce maintenance and replacement costs while increasing nighttime safety, utility, security and productivity.

In the event that any provisions contained within this title conflict with the provisions contained in this section, the provisions of the more restrictive regulations shall apply.

- A. Definitions:** When used in this section, the following words, terms, and phrases, and their derivations shall have the meanings provided in this section, except where the context clearly indicates a different meaning. Other words not defined shall have their respective and commonly understood meanings.

~~CUTOFF: The point at which all light rays emitted by a lamp, light source or luminary are completely eliminated (cut off) at a specific angle above the ground.~~

~~CUTOFF ANGLE: The angle formed by a line drawn from the direction of light rays at the light source and a line below a horizontal plane running through the lowest point on the fixture where light is emitted (see figure A of this section).~~

~~CUTOFF TYPE LUMINARY: A unit of illumination with elements such as shield, reflectors or refractor panels that direct and cut off the light at a cutoff angle less than ninety degrees (90°).~~

CORRELATED COLOR TEMPERATURE (CCT): The absolute temperature of a blackbody whose chromaticity most nearly resembles that of the

light source. CCT values, measured in units of Kelvins (K), are typically provided in lighting manufacturer data sheets.

EXTERIOR LIGHTING: All lighting, including, without limitation, street lighting; parking lot lighting; commercial, industrial, and institutional lighting, where the light source originates outside the exterior walls of a structure, and lighted exterior signs whether illuminated internally or externally.

~~FOOT-CANDLE: A unit of illumination produced on a surface, all points of which are one foot (1') from a uniform point source of one candle.~~

FOSSIL FUEL LIGHTING: Lighting whose emissions are directly produced by the combustion of fossil fuels such as natural gas and propane are permitted so long as the light source is completely enclosed in a suitable housing such as a lantern.

FULLY SHIELDED: The condition of an outdoor luminaire constructed such that in its installed position all of the light emitted by the luminaire is projected below the horizontal plane passing through the lowest light-emitting part of the luminaire. In the IES Luminaire Classification System for Outdoor luminaires, these luminaires have an uplight rating of U0.

~~FIGURE A
ACCEPTABLE SHIELDING, HOODING AND AIMING OF OUTDOOR LIGHT
FIXTURES~~

[Figure A removed at this location]

GLARE: Light emitting from a ~~luminary~~ luminaire with an intensity great enough to reduce a viewer's ability to see and in extreme cases, causing momentary blindness.

HOLIDAY LIGHTING: Low-intensity string lights, whose luminous output does not exceed fifty (50) lumens per linear foot, and fully-shielded floodlights, whose luminous output does not exceed one thousand (1,000) lumens and which are aimed and oriented in such a way as to not directly emit any light into the night sky, and operated only during prescribed periods of time during the calendar year.

HORIZONTAL PLANE: A plane that is locally tangent to the Earth's surface and perpendicular to the nadir.

ILLUMINANCE: The areal density of the luminous flux incident at a point on a surface. Illuminance is a measure of the light received by or on a surface.

ILLUMINATING ENGINEERING SOCIETY (IES): An industry-supported, nonprofit learned society headquartered at 120 Wall Street, New York City, New York, recognized as an authoritative body on the science and application of lighting that publishes and promotes recommended practices for a variety of specific lighting applications.

IMPROVED ACRE: The gross acreage of a parcel less any acres that are not covered by structures, impervious surfaces and manicured or irrigated landscape areas. Landscape areas not accessible to pedestrians, stormwater facilities and areas of native vegetation are considered unimproved for the purposes of this definition.

INTERNATIONAL DARK-SKY ASSOCIATION (IDA): A nonprofit advocacy organization headquartered at 5049 E. Broadway Boulevard #105, Tucson, Arizona, which is a recognized global authority on light pollution.

LIGHT TRESPASS: A condition in which artificial light emitted from a luminaire on one property, not inclusive of light incidentally scattered or reflected from adjacent surfaces, is directed in such a manner that the lamp or light source is visible from any other property.

LUMEN: The SI unit of luminous flux equal to the luminous flux emitted within a unit solid angle (one steradian) by a point source having a uniform luminous intensity of one candela.

~~**LUMINARY**~~**LUMINAIRE:** ~~A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts~~ A complete lighting unit consisting of a light source(s) and ballast(s) or driver(s) (when applicable), together with the parts designed to distribute the light, to position and protect the light source(s), and to connect the light source(s) to the power supply. Also known as a light fixture.

LUMINANCE: The amount of light that passes through, is emitted, or reflected, from a particular area, and that falls within a given solid angle. Luminance is a measure of light emitted by or from a surface. The SI unit of luminance is candela per square meter (cd/m²).

NADIR: The local vertical direction pointing toward the center of the Earth.

~~OUTDOOR LIGHTING: For purposes of this section, "outdoor lighting" shall refer to all street lighting, commercial lighting, and all lighting in a residential neighborhood, excepting small porch lights using not over one hundred (100) watt bulbs, and garden lights under one hundred (100) watts and under the height of seven feet (7').~~

OUTDOOR SPORTS LIGHTING: Lighting equipment designed and installed specifically to illuminate outdoor venues used for the practice and play of any outdoor sport or similar recreation activity. This term refers only to lighting directed toward, or intended to facilitate, play or recreation on outdoor surfaces, or to illuminate spectator viewing stands, but not for illumination of any other part of a connected or adjacent property.

POLE HEIGHT: The distance in the vertical direction above finished grade to the lamp or light source of a pole-mounted luminaire.

~~STANDARDS: As used in this section, reference to a standard shall be the pole portion of the structure not including the fixture or the concrete base.~~

SINGLE-FAMILY RESIDENTIAL LOT: a lot for a detached single-family residence, half of a twinhome, or a townhome, and ancillary uses. IADUs, accessory residential units, and caretaker accessory dwelling units do not alone exclude the lot as a single-family residential lot.

UPLIGHTING: Lighting designed and installed in such a manner as to directly cast its light at any angle or toward any direction above the horizontal plane.

B. Applicability.

1. All exterior lighting installed after the effective date of this section in the County, except where specifically stated in subsection I, shall be in conformance with the requirements established by this section and any other applicable ordinances. Single-family residential lots and agricultural uses shall be exempt from these requirements, except for light trespass requirements. The provisions of this section shall apply to all new development of real property that involves:
 - a. New construction for which a land use application is required;
 - b. Remodeling of an existing building or structure for which a land use application is required; provided, however, that compliance with the requirements of this section is required for a remodel of an existing building or structure only with respect to the remodeled portion of the existing building or structure unless the amortization provisions of this section require all lighting to comply; or
 - c. Installation of new outdoor luminaires for any purpose.
2. The land use authority may require, as part of a conditional use, for exterior lighting to comply with standards that are more strict than those in this section when the specific land use requires a conditional use permit and the conditional use standards support greater restriction for the use.
3. In case of conflict between any of the provisions of this section, or any other applicable law, the most restrictive shall apply.

C. Amortization of non-conforming installations.

1. All exterior lighting luminaires that were lawfully installed prior to the effective date of this section, but that do not comply with the requirements of this section, are declared to be legal non-conforming luminaires.
2. All legal non-conforming luminaires may continue to be used and maintained after the adoption of this section, but legal non-conforming luminaires shall be brought into compliance

with its requirements upon the first to occur of any of the following:

- a. Approval of any land use permit or a building permit that includes structures or real property where the luminaire is placed;
- b. A change of use of the property from a single-family residential use or agricultural use to any other use;
- c. Any renovation to a structure or other improvement where the luminaire is placed equal to or exceeding twenty (20) percent of its assessed value;
- d. Reconstruction of a structure where the luminaire is placed if more than fifty (50) percent of the total appraised value of a structure, as determined from the county's assessment records, is destroyed;
- e. A determination by the Planning Director that the legal non-conforming luminaire constitutes a public hazard or nuisance; or
- f. The replacement of any legal non-conforming luminaire with new lighting equipment, not inclusive of lamps or similar consumable parts.

3. Conformity shall occur prior to issuance of a certificate of occupancy, final inspection, return of any bonds or improvement assurances associated with the project, or approval by the County of the improvement(s). For other permits, the applicant shall have a maximum of sixty (60) days from date of permit issuance to bring the lighting into conformance.

D. Approved Materials And Methods Of Construction Or Installation/Operation: The provisions of this section are intended to prevent the use of any design, material or method of installation or operation of an outdoor luminaire not specifically prescribed by this section. See Figure A for examples of acceptable, i.e., fully shielded, and unacceptable luminaires.

FIGURE A
ACCEPTABLE SHIELDING, HOODING AND AIMING OF OUTDOOR LIGHT FIXTURES



~~E. Cutoff Angle: All light shall require a luminary or shield with less than a ninety (90) degree full cutoff. All light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted (see figure A of this section).~~

~~FIGURE A~~

~~ACCEPTABLE SHIELDING, HOODING AND AIMING OF OUTDOOR LIGHT FIXTURES~~

E. ~~Heights Of Pole-Mounted Luminaires Standards: The pole~~ heights of standards pole-mounted luminaires shall not exceed twenty feet (20') in commercial or industrial areas zones and fifteen feet (15') in residential or any other areas zones.

F. ~~Prohibited Lighting: Flashing lights, searchlights and neon lighting~~ Without limitation to other prohibited luminaires, the use of the following types of exterior lighting is prohibited-
except as specifically exempted here or elsewhere in this section.

1. Outdoor flood lighting by projection of light above the horizontal plane running through the lowest light-emitting portion of a luminaire, except as permitted in subsection I of this section.
2. Searchlights, skybeams, and similar lighting, except as required by first responders in the performance of their duties.
3. Lasers, except Class 2 or lower laser light sources as used only for holiday lighting.
4. Any luminaire that dynamically varies its output by intermittently fading, flashing, blinking, or rotating. This type of lighting includes strobe lighting.
5. Any luminaire that uses mercury vapor lamps or sealed, low-pressure tubes containing inert gasses such as neon.

G. Plan Required:

1. ~~During the approval process of a development, a~~ A lighting plan shall be submitted as part of ~~the application~~ any development application. Single-family residential lots and agricultural uses shall be exempt from this lighting plan requirement. The lighting plan, ~~which~~ shall address the following:
 - a. Type of illumination;
 - b. Mounting height above finished grade;

- c. Location at intersections of streets and at fire hydrants;
- d. Source(s) of light;
- e. Whether the luminaires are fully shielded;
- f. Correlated color temperature of light sources;
- g. Inclusion of any equipment intended to actively control the light output of luminaires;
- h. The number of lumens of light per improved acre, broken down in a manner that indicates:
 - i. Lighting required by the IBC;
 - ii. Lighting required by the Federal Aviation Administration (FAA);
 - iii. Lighting of walkways or parking lots required to comply with IES recommendations;
 - iv. Lighting on a structure not required by IBC or FAA, or in compliance with IES recommendations for walkways or parking lots;
 - v. Landscape lighting, along the height of the landscaping element being lit;
 - vi. Uplighting on a structure; and
 - vii. Lighting on flags and sign lighting;
- i. Lighted area for each source light which is proposed; and
- j. A rendering of any pole-mounted street and roadway luminaires;
- k. Demonstration that all lighting meets the requirements in Section I(3); and
- l. Calculations or photometric models indicating the maximum luminance value for any illuminated surface of any building or vertical structure.

~~1. Type of illumination;~~

~~2. Height above grade;~~

~~3. Location at intersections of streets and at fire hydrants;~~

~~4. Source of light;~~

~~5. Lighted area for each source light which is proposed; and~~

~~6. A different standard may be allowed with the understanding that if the standard needs to be replaced it will be replaced with the typical standard provided by the service provider.~~

~~Standard other than the typical standard provided by the service provider will be paid for by the homeowners' association or property owners. The requirements in subsection I of this section must still be complied with.~~

~~7. Rendering of the standard approved by Heber Light And Power or other applicable service provider in accordance with the requirements of this title.~~

2. Sufficiency of plans. The above required plans and descriptions shall be sufficiently complete to enable the Planning Director to readily determine whether compliance with the requirements of this section can be determined. If such plans and descriptions cannot enable this determination, by reason of the nature or configuration of the devices, luminaires or lamps proposed, the applicant shall submit evidence of compliance by certified test reports as performed by a recognized lab. The Planning Director may use third-party plan reviewers, the cost of whose services shall be charged to the applicant. The Planning Director shall further have the authority to request additional information consistent with the purposes of this section.

3. Amendment to approved plans. Any change to approved exterior luminaires or lamps must be approved prior to installation.

H. ~~Exceptions~~ Exemptions: The following are exempt from compliance with all provisions of this section, except as noted.

1. Public lighting, subject to the requirements of subsection J of this section.

2. All temporary emergency lighting needed by ~~the police, fire department or other emergency services~~ first responders only for as long as conditions which warrant the emergency lighting so identified by first responders continue to exist. This includes temporary lighting illuminating the activities of law enforcement, fire and other emergency services, as well as building egress lighting whose electric power is provided by either battery or generator. ~~, as well as all vehicular lighting, shall be exempt from the requirements of this section; and~~

3. Temporary lighting required to save life, limb or property from imminent peril, provided that use persists only during the hours of the peril.
4. Lighting employed during repairs of roads, utilities and similar infrastructure, including unshielded lighting.
5. All hazard warning lighting required by any county, state or federal agencies.
6. Holiday lighting, for a period not to exceed sixty (60) days, whether consecutive or non-consecutive, in one calendar year. The total quantity of light meeting this definition permitted is not limited, but excessive displays are liable to be declared public nuisances. All holiday lighting must be fully extinguished each night between the hours of 11 P.M. and 5 A.M. during the allowed period.
7. Outdoor sports lighting, provided that its design and installation adhere to the version of the International Dark-Sky Association's Criteria for Community-Friendly Outdoor Sports Lighting operative at the time when the land use application is submitted to the County for review.
8. Underwater lighting of swimming pools and similar water features provided that such lighting is not oriented in any direction above the horizontal.
9. Fossil fuel lighting.
10. Lighting required by law to be installed on motor vehicles.
11. String, festoon, and similar lighting, provided that the emission of no individual lamp exceeds fifty (50) lumens, and no installation of such lighting exceeds, in the aggregate, three thousand (3,000) lumens.
12. Temporary lighting allowed by obtaining a temporary use permit as described in Section 16.24 and subsection K of this section.

13. Any form of lighting whose use is mandated or otherwise governed by any legal jurisdiction higher than that of the County.
14. Exterior lighting installed on single-family residential lots and agricultural uses, except for light trespass requirements.

I. Lighting Standards⁺

1. Compliance with building codes: All exterior lighting luminaires installed in conformance with this section shall comply with all applicable building codes in effect at the time of installation under appropriate permitting and inspection.
2. Full shielding required: Unless exempted in this section, all exterior lighting luminaires shall be fully shielded.
3. Lighting application illuminance limits:
 - a. Exterior lighting required by the International Building Code (IBC) version incorporated by reference in Section 7.04.01, including but not limited to points of egress and along the path of travel for the exit discharge from each exit to the public way, shall employ illuminances that adhere to, but not exceed, the IBC-required values.
 - b. For all other exterior lighting applications not governed by IBC requirements, excluding architectural lighting, the illuminance employed in each application shall adhere to, but not exceed, the IES-recommended minimum value for the application.
 - c. With the exception of lighting exempted from regulation in subsection H, item 13 of this section, and permanent lighting of drive aisles and parking areas that adhere to the current IES recommendation found in ANSI/IES RP-8, Table 17-2, in no case shall exterior lighting installed on any site exceed 25,000 lumens per improved acre.

4. Spectrum management: The correlated color temperature of light sources shall not exceed 3000 Kelvins.
5. Light trespass prohibited: No luminaire shall create conditions of light trespass, except as authorized by this section. Without limitation, single-family residential lots and agricultural uses are prohibited from light trespass.
6. General curfew: All exterior lighting shall be extinguished one hour after sunset; or within one (1) hour of the close of normal business hours; or at the conclusion of usual operations and remain extinguished until no later than one (1) hour before sunrise. Businesses whose normal operating hours are twenty-four (24) hours per day are exempt from these provisions. Conditional uses may require stricter standards as determined by the land use authority. The following lighting applications shall be exempt from the general curfew:
 - a. Walkway bollard, ramp, and in-step stair luminaires provided with individual motion-sensing switches for resumption of illumination at one hundred percent (100%) of their normal lumen levels for no more than a five (5) minute period per trigger.
 - b. Individual pole-mounted parking lot luminaires provided with individual motion-sensing switches for resumption of illumination at seventy-five percent (75%) of their normal lumen levels for no more than a five (5) minute period per trigger.
7. Flagpoles: Property owners are encouraged to not illuminate flagpoles at night, but rather to hoist flags after dawn and lower flags before sunset. If flags are illuminated at night, lighting of up to a total of two (2) flags per property is permitted with the following conditions:
 - a. If nighttime illumination is used, flagpoles with a height greater than 20 feet above ground level shall be illuminated only from above. This may be achieved by utilizing a luminaire attached to the top of the flagpole or a luminaire mounted above the top of the flagpole on a structure within fifteen (15) feet of the

flagpole and must comply with all sections of this section. The total light output from any luminaire mounted on top of or above a flag pole shall not exceed 800 lumens.

- b. Flag poles with a height equal to or less than twenty (20) feet above ground level may be illuminated from below. If ground-level illumination is used, flagpoles may be illuminated with up to two (2) spot type luminaires, utilizing shields or diffusers to reduce glare, whose maximum combined lumen output is 75 lumens per linear foot of pole height, measured from the level of the luminaire above finished grade to the top of the flagpole. Luminaires are to be mounted so that their lenses are perpendicular to the flag pole and the light output points directly toward the flag(s).

- 8. Service station canopies: All luminaires mounted on or recessed into the lower surface of service station canopies shall be fully shielded and utilize only flat lenses or windows. Shielding must be provided by the luminaire itself, and not by surrounding structures such as canopy edges. Illuminance values shall not exceed the IES-recommended minimum values.

~~The following shall be required on all streetlights for consistency of maintenance:~~

- ~~1. Bulb: LED, fifty (50) to seventy (70) watt max.~~
- ~~2. One hundred twenty (120) volt.~~
- ~~3. Toolless replacement and interchangeable ballast.~~
- ~~4. Twistlock photocell.~~
- ~~5. Head: Glass or acrylic, asymmetric.~~
- ~~6. Temperature: 4000 K.~~
- ~~7. Photocell: Twistlock.~~
- ~~8. Mounting condition: Concrete base with J bolts.~~

~~9. Pole: As required in this section.~~

~~10. Fixture head type: Cutoff with full top aluminum reflector.~~

~~11. Fixture style: Washington Acorn HC88 16530 or similar style approved by the service provider in compliance with this title.~~

~~12. The fixture shall comply with the cutoff standards listed in subsection D of this section.~~

J. Public Lighting: All exterior lighting owned or operated by the County, a special service district, an interlocal governmental entity, or a municipality, installed after the effective date of this section shall meet all of the following requirements:

1. Warranting. Except for street lights, new installations of exterior lighting will only be installed on public properties and rights-of-way upon determination by the County Manager, or that person's designee, that a public health, safety or welfare benefit due to the use of lighting exists. Criteria warranting the use of street lighting are stated in Section 14.02.08.
2. Curfew. All public lighting not adaptively controlled must be fully extinguished by 10 P.M., or within one hour of the end of occupancy of the structure or area to be lit, whichever is later, and remain extinguished until no earlier than one (1) hour before sunrise. Street lighting is exempt from this requirement.
3. Adaptive controlling. All new installations of exterior lighting on public properties and rights of way must be regulated with adaptive controls such that the lighting of areas is restricted to times, places and amounts required for safe occupancy. Street lighting is exempt from this requirement.
4. Additional street lighting requirements. In addition to the above, the following shall be required on all streetlights for consistency of maintenance:

1. Bulb: LED, fifty (50) to seventy (70) watt max.
 2. One hundred twenty (120) volt.
 3. Toolless replacement and interchangeable ballast.
 4. Twistlock photocell.
 5. Head: Glass or acrylic, asymmetric.
 6. Mounting condition: Concrete base with J bolts.
 7. Pole: As required in this section. A different pole may be allowed with the understanding that if the pole needs to be replaced it will be replaced with the typical pole provided by the service provider. Poles other than the typical poles provided by the service provider will be paid for by the homeowners' association or property owners.
 8. Fixture head type: Fully shielded with full top aluminum reflector.
 9. Fixture style: As agreed to by the County and the service provider in compliance with this title.
- K. Temporary Lighting: Temporary lighting that does not conform to the provisions of this section may be approved at the discretion of the Planning Director subject to submission of an acceptable temporary use permit for exterior lighting. In addition to the requirements in Section 16.24, temporary lighting is subject to the following requirements:
1. Permit term and renewal. Permits shall be valid for no more than thirty (30) calendar days and subject to no more than one renewal, at the discretion of the Planning Director, for an additional thirty (30) calendar days.
 2. Conversion to permanent status. Any lighting allowed that remains installed after sixty (60) calendar days from the issue date of the permit is declared permanent and is immediately subject to all of the provisions of this section and enforcement provisions of this title.

3. Exterior lighting permit contents. A request for temporary exemption to any provision of this section shall contain minimally the following listed information:

- a. Specific exemptions requested;
- b. Previous temporary exemptions, if any;
- c. Duration of time requested exemption;
- d. Type and use of exterior light involved;
- e. Type and lumens of proposed lamps;
- f. A plan with proposed luminaire locations; and
- g. Manufacturer data sheets for proposed luminaires.

4. In addition to the above data, the Planning Director may request any additional information which would enable a reasonable evaluation of the request for temporary exemption.

L. Architectural and Landscape Lighting: Exterior lighting used to illuminate the walls or architectural features of a building or structure, and landscape lighting used to illuminate trees or other landscape elements, is permitted subject to the following conditions:

- 1. All such lighting shall comply with the curfew requirement and light trespass prohibition specified in this section.
- 2. Luminaires used for uplighting of structures may be unshielded by design provided that their direct light is completely captured by architectural surfaces and not emitted directly into the night sky. In the event that an applicant wishes to illuminate surfaces in this manner, the applicant shall also provide with the lighting plan required in subsection G of this section information on the construction materials of illuminated surfaces, their colors and finishes.
- 3. The luminance of architectural surfaces shall not exceed 27 candelas per square meter. Luminance of a surface shall be measured in a line of sight direction to the observer at an angle perpendicular to the surface being measured. The final

measurement shall be the median value of three (3) measurements. A margin of error not to exceed twenty (20) degrees from perpendicular viewing angle is acceptable for purposes of measurement. The device used to measure the luminance shall have a margin of error of not more than ten (10) percent. Measurements associated with enforcement actions may only be taken by the planning director or his designee. Measurements shall be taken at a distance of not less than ten (10) feet from the surface, to avoid anomalies due to polished, reflective or irregular materials.

4. Luminaires used for uplighting of trees or other landscaping elements may be unshielded by design provided that their direct light is mostly captured by trees or landscaping and not emitted directly into the night sky. In the event that an applicant wishes to illuminate trees or landscaping in this manner, the applicant shall also provide with the lighting plan required in subsection G of this section, information on the height of the trees or landscaping. The luminaires used for the uplighting of trees or other landscaping elements shall not exceed 10 lumens per vertical foot of the trees or landscaping, and may not exceed 1,000 lumens per improved acre. This limit does not create an additional allowance beyond the site lumen threshold stated in subsection I, item 3c of this section.

HISTORY

Adopted by Ord. 13-15 on 10/16/2013

Amended by Ord. 14-05 on 11/5/2014

16.15.25: SIGN STANDARDS

- A. Statement Of Purpose: The purpose of this code is to establish standards for the erection and use of signs, symbols, markings and advertising devices within the JBOZ. These standards are designed to promote and protect the public welfare, health and safety of persons within the community and to aid in the development and promotion of business and industry by providing sign regulations which encourage aesthetic creativity, effectiveness and flexibility in the design and use of such devices without creating detriment to the general public.
- B. Use Authorized: This code authorizes the use of signs, provided they are:
1. Compatible with their surroundings, pursuant to the objectives of proper design and zoning amenities;
 2. Designed, installed and maintained to meet the sign user's needs, while at the same time promoting the amenable environment desired by the general public;
 3. Designed, constructed, installed and maintained in such a manner that they do not endanger public safety or traffic safety;
 4. Legible, readable and visible from the adjacent travelway or closest right of way in the circumstances in which they are used;
 5. Respectful of the reasonable rights of other advertisers whose messages are displayed;
 6. Comply with the other requirements of this code.
- C. Short Title: This section shall be known as the SIGN CODE OF THE JORDANELLE BASIN OVERLAY ZONE, or may be so cited and pleaded and shall be referred herein as the code.
- D. Definitions: The definitions used in section 16.26 of this title shall apply to the sign standards of this section.

E. Permits Required:

1. Except as otherwise provided in this code, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign in the county, or cause the same to be done, without first obtaining a sign permit for each such sign. This does not apply to changing the copy of any existing sign, nor for the repainting, cleaning or other normal maintenance of such sign, so long as the sign is not modified in any way, and so long as the existing sign complies with the terms of this code as to size, location, lighting and composition as outlined in this code.
2. Any permits issued shall become null and void if such sign is not erected within one hundred eighty (180) days from the issuance of said permit.

F. Construction Specifications:

1. No sign shall be constructed to block any road, driveway, exit, fire escape, door or window, or any means of ingress or egress for persons to and from the building, or for automobiles to and from the property or adjoining property;
2. No sign shall exceed thirty two (32) square feet in size, excluding any supports therefor;
3. No sign shall exceed seven feet (7') in height;
4. All signs shall be made of either wood or an approved material which has the same appearance as wood;
5. All lettering on the sign shall be approved as to size, color and style;
6. ~~All lighting of the sign shall be approved before issuance of a permit and shall comply with the lighting code;~~ **Lighted signs, whether illuminated internally or externally, shall comply with all of the following:**
 - a. **Adhere to all provisions of Section 16.21.16. Internally illuminated signs are exempted from the full shielding requirement.**

- b. Not exceed, in any design or message element, a luminance of forty (40) candelas per square meter between one (1) hour after sunset and one hour before sunrise; and
- c. Be fully extinguished after the end of regular business hours and remain in that state until no earlier than one (1) hour before sunrise.

7. All signs shall be readable from the adjacent travelway or closest right of way.

G. Prohibited Signs:

- 1. Animated and intensely lighted signs;
- 2. Moving signs;
- 3. Banners, flags, pennants, search lights, twirling signs, sandwich board signs, sidewalk or curb signs, balloons or other gas filled figures (this does not include a temporary "for sale" sign placed by a realtor or owner of property which is for sale, or "open house" signs);
- 4. Roof signs;
- 5. Video signs;
- 6. Off premises signs;
- 7. Billboards;
- 8. Projections signs;
- 9. Electronic message signs;
- 10. Other signs:
 - a. Signs which bear or contain statements, words or pictures of an obscene or pornographic character;
 - b. Signs which are painted on or attached to any fence, wall or structure (unless a permit has been granted

therefor) other than a means of posting the name of the occupant or address of a residence;

- c. Signs which emit audible sound, odor or matter;
- d. Signs which are an imitation of an official traffic sign or signal, or may be confused with such;
- e. Any sign or combination of signs which cover more than ten percent (10%) of the building facade on any side of such building.

H. Master Sign Plans:

1. Buildings or clusters of buildings within a project or premises, having more than one tenant or use, shall provide a master sign plan for the entire structure or project prior to any sign permit approval by the planning department.
2. The master sign plan shall be designed to establish a common theme or design for the entire building, using similar construction methods, compatible colors, scale, and identical backgrounds.
3. Master sign plans for office buildings must focus primarily on the identification of the building. Individual tenants may be identified with lettering on exterior windows, doors or a building directory.
4. Total sign area within the master sign plan is subject to the size limitation identified in subsection F2 of this section, except the planning director may grant additional sign area, provided the total area requested does not exceed five percent (5%) of the building face to which the signs are attached. The planning director must make findings based on the following criteria:
 - a. Signs must be designed to fit within and not detract from or obscure architectural elements of the building facade;
 - b. Signs must establish a visual continuity with adjacent building facades and be oriented to emphasize pedestrian or vehicle visibility;

- c. The building must have more than one tenant in more than one space; and
 - d. The building must have more than seventy feet (70') of street frontage.
- I. Setback Requirements: Signs shall not be placed in the setback area as defined for the zone in which the sign is located, except in the commercial area. Signs in the commercial area may be set back ten feet (10') from the property line. The planning director may decrease the setback if it is determined that the public will benefit from a sign located otherwise, due to site specific conditions such as steep terrain, integration of sign on retaining walls, heavy vegetation, or existing structures on the site or adjoining properties.
- J. Maintenance And Repair: All signs shall be maintained in a safe, presentable and good structural condition at all times, including the repair or replacement of defective or worn parts, painting, repainting, cleaning and any other acts required for the maintenance of said sign. If a sign is not made to comply with the standards of this code within ten (10) days of written notice to comply, such sign may be removed and the owner may be charged for the cost of such disposal.
- K. Abandoned Signs: Any signs which remains on the premises which becomes vacant and remains unoccupied for a period of ninety (90) days or more, or any sign which pertains to an event, time or purpose which no longer applies, shall be deemed to have been abandoned. All such abandoned signs shall be removed by the owner of the premises on which the sign is located. If not so removed within ten (10) days of written notice to remove such sign, the sign may be removed and the owner may be charged for the cost of such disposal.
- L. Notices: The notice shall be mailed to the owner of the property on which the sign is located. An additional notice shall be posted on or very near the sign itself.

- M. Disposal Of Signs: Any sign removed under this code becomes the property of the county and may be disposed of in any manner deemed appropriate by the county. The cost of removal of the sign shall be considered a debt owed to the county and may be recovered in an appropriate court action, including any and all incidental expenses incurred in connection with the sign removal.
- N. Dangerous Signs: When it is determined by the county zoning administrator that any sign would cause an imminent danger to the public safety and contact with the owner cannot be made immediately, no written notice or posting shall be required. In this emergency situation, the sign may be removed by the county immediately.
- O. Conflict: If any portion of this section is found to be in conflict with any other provision of any zoning, building, fire safety or health ordinance, the provision which establishes the more restrictive standard shall prevail.

HISTORY

Adopted by Ord. 09-04 on 3/13/2009

Amended by Ord. 09-06 on 5/28/2009

EXHIBIT C – Ordinance 23-01

ORDINANCE NO. 23-01

Ordinance to amend section 16.21.16 (Outdoor Lighting Regulations) and 16.26 (Sign Regulations) of the Wasatch County Code. The proposed amendment adds a number of new and updated language as well as provides clarification for building lighting.

RECITALS

WHEREAS, Chapter 16.21.16 of the Wasatch County Code outlines the requirements for Outdoor lighting in the County; and

WHEREAS, 16.26 of the Wasatch County Code regulates signs and how they are illuminated; and

WHEREAS, the outdoor lighting code, in its substantial form, has been used since 2003; and

WHEREAS the existing code allows any amount of light on a site or building without limits as long as it is directed down; and

WHEREAS, the existing ordinance is somewhat limited on regulations for lighting of buildings; and

WHEREAS, outdoor lighting technology has changed substantially in the two decades since adoption of the original code and the current code does not use any of the latest technology to control lighting; and

WHEREAS, the proposed code brings the County closer to compliance with the best management practices (BMP's) as required of municipalities by the International Dark Sky Association requirements for accreditation as International Dark Sky Communities; and

WHEREAS, the proposed amendment balances the health, safety, welfare interests of adequate lighting required under the IBC, FAA, and recommendations of the IES with the welfare interests in reducing light pollution; and

WHEREAS, the findings of the legislative body made in adopting this ordinance are hereby incorporated into the whereas section of this ordinance;

WHEREAS, Utah Code 17-27a-502 requires Wasatch County to give notice of public hearing as provided in Utah Code 17-27a-205(1)(a), and to hold a public hearing; and

WHEREAS, Wasatch County gave notice of all public meetings and public hearings related to this ordinance as required, and the planning commission and the legislative body held a public hearings as required; and

WHEREAS, the legislative body has considered public comment, has considered staff recommendations, and has deliberated on the proposal; and

WHEREAS, the legislative body hereby determines that the amendment is in the interest of the public, and is consistent with the goals and policies of the Wasatch County general plan;

NOW THEREFORE, the County Legislative Body of Wasatch County ordains that the Wasatch County Land Use and Development Code be amended as follows:

See exhibit C, “Updated Proposed Code”

SECTION I: Enactment. The following amendments, additions, and deletions to Title 16, the Land Use and Development Code, are hereby enacted: See attached exhibit.

SECTION II: Repealer. If any provisions of the County Code heretofore adopted are wholly inconsistent with this ordinance, they are hereby repealed.

SECTION III: Amendment of Conflicting Ordinances. To the extent that any ordinances, resolutions, or policies of Wasatch County partially conflict with this ordinance, they are hereby amended to comply with the provisions hereof.

SECTION IV: Effective Date. This Ordinance shall become effective immediately upon execution by the Chair of the County Council and the completion of public notice requirements imposed by state statute.

SECTION V: Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

SECTION VI: Public Notice. The Wasatch County Clerk, and ex officio Clerk of the Wasatch County Council, is hereby ordered, in accordance with the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, to do as follows:

- a. Enter at length this ordinance in the ordinance book;
- b. Deposit a copy of this ordinance in the office of the County Clerk;
- c. Publish a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk’s office and with the name of the members voting for and against the ordinance, for at least one publication in a newspaper published in and having general circulation in the county; or post a complete copy of this ordinance in nine (9) public places within the County.

APPROVED and **PASSED** this _____ day of _____, 2023.

Attest:

WASATCH COUNTY COUNCIL:

Joey Granger
Wasatch County Clerk / Auditor

Spencer Park, Chairman
Wasatch County Council

VOTE

Spencer Park, Chairman

Mark Nelson, Vice Chair	_____
Erik Rowland	_____
Karl McMillan	_____
Kendall Crittenden	_____
Steve Farrell	_____
Luke Searle	_____

ADOPTION OF ORDINANCE AFFIDAVIT

STATE OF UTAH)
): ss.
 COUNTY OF WASATCH)

I, the undersigned, the duly qualified and acting County Clerk of Wasatch County, Utah, and ex officio Clerk of the Wasatch County Council do hereby further certify, according to the records of said Council in my official possession, and upon my own knowledge and belief, that I have fulfilled the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, by:

- [] (a) Causing this ordinance to be entered at length in the ordinance book;
- [] (b) Causing three (3) copies of this ordinance to be deposited in the office of the County Clerk;
- [] (c) Causing a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance to be published for at least one publication in *The Wasatch Wave*, a newspaper of general circulation within the geographical jurisdiction of Wasatch County; or posting a complete copy of this ordinance in nine (9) public places within the County.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of the County Council of Wasatch County, Utah, this ____ day of _____, 2023.

 Joey Granger
 Wasatch County Clerk / Auditor

SUBSCRIBED AND SWORN to me, a Notary Public, this ____ day of _____, 2023.

 Notary Public

Residing in:
 My commission expires

Wasatch County, Utah, Outdoor Lighting Ordinance Amendment Proposal v2.0 International Dark Sky Community Eligibility Analysis

Purpose: This document compares the current (v2.0) proposed amendment to the Wasatch County, Utah, outdoor lighting ordinance against the current International Dark-Sky Association (IDA) International Dark Sky Community (IDSC) eligibility requirements. The IDA requirements are stated below; for each, we provide an assessment of the v2.0 ordinance amendment proposal and comment on whether it adheres to the IDSC standard.

Summary findings: Some of the IDSC eligibility requirements are clearly met in the v2.0 amendment proposal, but others are not. Many of the situations in which the proposal does not meet the IDSC requirements stem from the fact that the proposal provides a blanket exemption for residential lighting in §16.21.16(B)(1). IDA requires that the relevant code provisions in the IDSC program guidelines extend to all properties, whether residential or non-residential. The other significant shortcoming is that the process for amortizing existing, non-conforming luminaires does not include a sunset date for the blanket exemption from compliance in §16.21.16(C). In order to overcome these limitations, the code would have to proactively regulate outdoor lighting on residential properties and set a future date, within 10 (ten) years of enactment, in which all existing, non-conforming outdoor lighting must be brought into compliance with the ordinance.

The symbols below mean the following:

- ✓ The code meets IDA requirements in its current form.
- ✗ The code does not meet IDA requirements in its current form.
- ⚠ The code appears to incompletely meet IDA requirements in its current form.

1. Shielding

IDA requirement: *“Full shielding of all lighting fixtures over 1000 initial lamp lumens”*

Assessment: ⚠ The proposed code amendment requires all lighting to be fully shielded, irrespective of the number of lumens. However, there are significant exceptions, most notably all outdoor lighting on residential properties.

Reference: §16.21.16(I)(2): “Unless exempted in this section, all exterior lighting luminaires shall be fully shielded.” Residential lighting is generally exempt from compliance in §16.21.16(B)(1). Landscape uplighting is similarly permitted in §16.21.16(L)(4) on the condition that “direct light is mostly captured by trees or landscaping and not emitted directly into the night sky”.

2. Spectrum management

IDA requirement: *“A limit on the emission of short-wavelength light through one of the following restrictions:*

- a. *The correlated color temperature (CCT) of lamps must not exceed 3000 Kelvins; OR*
- b. *Allowed lighting must not emit more than 25% of its total spectral power at wavelengths < 550 nanometers;*
OR
- c. *The scotopic-to-photopic (S/P) ratio of allowed lighting must not exceed 1.3"*

Assessment: ✓

Reference: §16.21.16(I)(4): "The correlated color temperature of light sources shall not exceed 3000 Kelvins."

3. Unshielded lighting site limits

IDA requirement: *"A restriction on the total amount of unshielded lighting, such as a limit on lumens per net acre or a total site lumen allowance in unshielded fixtures (or equivalent wattages)"*

Assessment: △ Because certain forms of lighting are exempt from the shielding requirement, some amount of unshielded lighting is permitted according to the proposed code amendment. As a result, an explicit limit on the amount of unshielded lighting per parcel would be required to meet the IDA standard.

Reference: Residential lighting is generally exempt from compliance in §16.21.16(B)(1).

4. Overlighting prevention

IDA requirement: *"A policy to address over-lighting, such as lumens per net acre caps (irrespective of shielding state) or maximum illuminance specifications"*

Assessment: ✓ (Non-residential uses)

Reference: §16.21.16(I)(3)(a) requires that for "exterior lighting applications not governed by IBC [International Building Code] requirements, excluding architectural lighting, the illuminance employed in each application shall adhere to, but not exceed, the IES-recommended minimum value for the application." A further 25,000 lumen per improved acre limit applies, exempting lighting required by jurisdictions higher than the county and parking lots lit to IES standards.

Assessment: ✗ (Residential uses)

Reference: Residential lighting is generally exempted from compliance with the lighting ordinance in §16.21.16(B)(1).

5. Regulation of publicly owned lighting

IDA requirement: *"Regulations of new installations of publicly-owned outdoor lighting: a. A provision that clearly indicates where, when, and under what circumstances new publicly owned outdoor lighting, including street lighting, is warranted and will be permitted; AND*

Assessment: ✓

Reference: §16.21.16(J)(1): “Except for street lights, new installations of exterior lighting will only be installed on public properties and rights-of-way upon determination by the County Manager, or that person’s designee, that a public health, safety or welfare benefit due to the use of lighting exists. Criteria warranting the use of street lighting are stated in Section 14.02.08.”

IDA requirement: *“b. A provision that requires that adaptive controls and/or curfews be employed in all future installations of public outdoor lighting”*

Assessment: ✓

Reference: Curfew, §16.21.16(J)(2): “It appears that no such policy exists in the current code. “All public lighting not adaptively controlled must be fully extinguished by 11 10 P.M., or within one hour of the end of occupancy of the structure or area to be lit, whichever is later, and remain extinguished until no earlier than one (1) hour before sunrise. Street lighting is exempt from this requirement.” Adaptive controls, §16.21.16(J)(3): “All new installations of exterior lighting on public properties and rights of way must be regulated with adaptive controls such that the lighting of areas is restricted to times, places and amounts required for safe occupancy. Street lighting is exempt from this requirement.”

6. Illuminated sign regulations

IDA requirement: *“Restrictions on the installation and operation of illuminated signs: a. Luminance levels for operation between sunset and sunrise shall not exceed 100 nits (100 candelas per square meter) as measured under conditions of a full white display; AND*

Assessment: ✓

Reference: §16.15.25(F)(6)(b): “Lighted signs, whether illuminated internally or externally, shall comply with all of the following: ... Not exceed, in any design or message element, a luminance of forty (40) candelas per square meter between one (1) hour after sunset and one (1) hour before sunrise.”

IDA requirement: *“b. Sign illumination shall be extinguished completely one (1) hour after sunset, and remain off until one (1) hour before sunrise; AND*

(N.B.: IDA has interpreted this rule to take into account ordinary operating hours of businesses and allow signs to remain illuminated for wayfinding purposes up to one hour after the close of business, exempting establishments that are open to the public 24 hours a day.)

Assessment: ✓

Reference: §16.15.25(F)(6)(b): “Lighted signs, whether illuminated internally or externally, shall comply with all of the following: ... Be fully extinguished after the end of regular business hours and remain in that state until no earlier than one (1) hour before sunrise.”

IDA requirement: “c. The luminous/illuminated surface area of an individual sign shall not exceed 200 square feet (18.6 square meters)”

Assessment: ✓

Reference: §16.15.25(F)(2): “No sign shall exceed thirty two (32) square feet in size, excluding any supports therefor.”

7. Outdoor sports lighting regulations

IDA requirement: If outdoor sports / athletic field lighting is permitted by the code, it “*may be exempted from the strict shielding and short-wavelength emission requirements above provided that all of the following conditions are met:*”

a. Illuminating Engineering Society (IES) lighting guidelines (RP-6) are followed according to the appropriate class of play

b. Field lighting is provided exclusively for illumination of the surface of play and viewing stands, and not for any other applications

c. Illuminance levels must be adjustable based on the task (e.g., active play vs. field maintenance)

d. Off-site impacts of the lighting will be limited to the greatest practical extent possible

e. A strict curfew requirement (e.g., lights must be extinguished by 10pm/2200h or one hour after the end of play, whichever is later) is observed

f. Timers must be installed to prevent lights being left on accidentally overnight by automatically extinguishing them”

Assessment: ✓

Reference: Outdoor sports lighting is generally exempted from compliance with the outdoor lighting ordinance in §16.21.16(H)(7) “provided that its design and installation adhere to the version of the International Dark-Sky Association’s Criteria for Community- Friendly Outdoor Sports Lighting operative at the time when the land use application is submitted to the County for review.” The current (v1.1) IDA guidelines cover all of the items in the current (2018) IDSC requirements.

8. Amortization of existing, non-conforming outdoor lighting

IDA requirement: “Affects an amortization period, applicable to ALL publicly AND privately owned lighting, to end not more than ten (10) years from the effective date of the outdoor lighting policy, after which all non-conforming lighting extant at the time of enactment must be brought into compliance with the policy.”

Assessment: ✕ While an amortization process is described in §16.21.16(C) (“Amortization of non-conforming installations”), it does not include a stated end date for the exemption of existing, non-conforming luminaires.

DARK SKY CONSULTING, LLC



List of proposed 2023 changes to the Wasatch County, Utah, outdoor lighting ordinance (§16.21.16) and sign ordinance (§16.15.25)

NOTE: Subsection numbering/lettering refers to the proposed amended ordinance.

1. §16.21.16 (Title): "Outdoor lighting" is changed to "Exterior lighting" throughout.
2. §16.21.16(A) (Definitions): Wording is added to indicate "Other words not defined shall have their respective and commonly understood meanings."
3. §16.21.16(A) (Definitions): The term "correlated color temperature" is added with a definition.
4. §16.21.16(A) (Definitions): The terms "cutoff", "cutoff angle" and "cutoff type luminary" are struck.
5. §16.21.16(A) (Definitions): The term "exterior lighting" is added with a definition.
6. §16.21.16(A) (Definitions): Figure A is moved to new subsection D (Approved Materials And Methods Of Construction Or Installation/Operation)
7. §16.21.16(A) (Definitions): The term "family residential lot" is added with a definition.
8. §16.21.16(A) (Definitions): The term "foot candle" is struck.
9. §16.21.16(A) (Definitions): The term "fossil fuel lighting" is added with a definition.
10. §16.21.16(A) (Definitions): The term "fully shielded" is added with a definition.
11. §16.21.16(A) (Definitions): The term "holiday lighting" is added with a definition.
12. §16.21.16(A) (Definitions): The term "horizontal plane" is added with a definition.
13. §16.21.16(A) (Definitions): The term "illuminance" is added with a definition.
14. §16.21.16(A) (Definitions): The term "Illuminating Engineering Society" is added with a definition.
15. §16.21.16(A) (Definitions): The term "improved acre" is added with a definition that includes all surfaces covered by building envelopes, hardscape/impervious cover, and manicured landscaping, but not including areas not accessible to pedestrians, detention ponds and areas of native vegetation.

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16. §16.21.16(A) (Definitions): The term "International Dark-Sky Association" is added with a definition.
17. §16.21.16(A) (Definitions): The term "light trespass" is added with a definition.
18. §16.21.16(A) (Definitions): The term "lumen" is added with a definition.
19. §16.21.16(A) (Definitions): The term "luminance" is added with a definition.
20. §16.21.16(A) (Definitions): The term "luminary" and its definition are struck and replaced with the term "luminaire" and its definition.
21. §16.21.16(A) (Definitions): The term "pole height" is added with a definition.
22. §16.21.16(A) (Definitions): The term "nadir" is added with a definition.
23. §16.21.16(A) (Definitions): The term "outdoor lighting" is struck.
24. §16.21.16(A) (Definitions): The term "standards" is struck.
25. §16.21.16(A) (Definitions): The term "outdoor sports lighting" is added with a definition.
26. §16.21.16(A) (Definitions): The term "single-family residential lot" is added with a definition.
27. §16.21.16(A) (Definitions): The term "~~uplighting~~" is added with a definition.
28. §16.21.16(B)(1) (Applicability): This section makes the ordinance applicable to:
 - a. New construction requiring permits;
 - b. Remodeling of existing structures requiring permits; and
 - c. "Installation of new outdoor luminaires for any purpose".

It also explicitly exempts single-family residential lots and agricultural uses from regulation "except for light trespass requirements"

29. §16.21.16(B)(2) (Applicability): Establishes the possibility of regulation of exterior lighting that is more strict than the ordinance through conditional use permits.
30. §16.21.16(B)(13) (Applicability): Declares that in case of conflicting provisions either within this ordinance, or in any other ordinance, the most restrictive shall control.
31. §16.21.16(C)(1) (Amortization of non-conforming installations): Grandfathers existing non-conforming exterior lighting.
32. §16.21.16(C)(2) (Amortization of non-conforming installations): Allows existing non-conforming exterior lighting to persist in that condition until any of several stated compliance triggers occurs, at which point immediate compliance is required. The triggers include:
 - a. Approval of a land use permit or a building permit including structures;
 - b. Change of use from a single family residential use or agricultural use to any other use;
 - c. Any renovation exceeding 20% of the assessed value;
 - d. Reconstruction in the event of destruction of at least 50% of the assessed value; and
 - e. A determination by the Planning Director that lighting constitutes a public nuisance;
 - f. The replacement of a legal non-conforming luminaire.

33. §16.21.16(C)(3) (Amortization of non-conforming installations): Requires conformity prior to the issuance of a certificate of occupancy or similar.
34. §16.21.16(D) (Approved Materials And Methods Of Construction Or Installation/Operation): Reintroduces Figure A, which previously appeared in the original subsection D (Cutoff Angle). That former subsection is struck.
35. §16.21.16(E) (Heights Of Pole-Mounted Luminaires): The former subsection E ("Heights of Standards") is modified to refer to "Heights Of Pole-Mounted Luminaires" and swaps former references to "standards" for references to "poles". The height limits in the current ordinance are retained. References to "areas" are replaced with "zones".
36. §16.21.16(F) (Prohibited Lighting): This section is substantially modified to add a number of additional items including:
 - a. Non-fully shielded flood lighting, with limited exemptions in §16.21.16(L) (Architectural and Landscape Lighting);
 - b. "Searchlights, skybeams, and similar lighting", with limited exceptions for their use by first responders;
 - c. Lasers, except for low-intensity sources used in holiday lighting displays;
 - d. "Fading, flashing, blinking, or rotating" sources; and
 - e. Luminaires using mercury vapor lamps.
37. §16.21.16(G)(1) (Plan Required): Additional required elements for permit applications are stated:
 - a. Whether the luminaires are fully shielded;
 - b. Correlated color temperature of light sources;
 - c. Inclusion of any equipment intended to actively control the light output of luminaires;
 - d. The number of lumens of light per improved acre;
 - e. A rendering of any pole-mounted street and roadway luminaires;
 - f. Demonstration that all lighting meets the requirements in Section I(3); and
 - g. Calculations or photometric models indicating the maximum luminance value for any illuminated surface of any building or vertical structure.
38. §16.21.16(G)(2) (Plan Required): Enables external review of plan submissions by consulting lighting engineers at applicant cost and may require applicants to submit additional supporting information with applications.
39. §16.21.16(G)(3) (Plan Required): Explicitly requires approval of any modifications to approved plans.
40. §16.21.16(H) (Exemptions): The existing "Exception" section is renamed "Exemptions". The list of exempted lighting types is significant expanded, including:
 - a. Public lighting, which is now regulated in §16.21.16(J);
 - b. Temporary emergency lighting on private property;
 - c. Lighting used by public works for use during repairs of "roads, utilities and similar infrastructure";
 - d. Holiday lighting displays, subject to certain limitations;
 - e. Outdoor sports lighting, subject to certain limitations;

- f. Underwater lighting of water features, provided lighting is not directed above the horizontal;
 - g. Lighting generated by combustion of fossil fuels;
 - h. String or festoon lighting, subject to certain limitations;
 - i. Temporary lighting installations, subject to the requirements of §16.21.16(K) and §16.24; and
 - j. Any type of lighting whose installation and use are required by legal jurisdictions higher than the County.
 - k. Exterior lighting installed on single family residential lots and agricultural uses, except for light trespass requirements.
41. §16.21.16(I) (Lighting Standards): Significant additions as follows:
- a. Exterior lighting installations must comply with the building code;
 - b. All luminaires must be fully shielded unless otherwise exempted;
 - c. Illuminances of lighting installations on non-residential uses are limited to the IBC requirements, where applicable, or otherwise to the IES-recommended minima per lighting application, and a 25,000 lumen per improved acre site limit in addition to those restrictions (further stating that parking lot lighting and any required lighting by, e.g., the IBC does not count toward the site lumen limit);
 - d. A 3000K correlated color temperature limit;
 - e. A general prohibition of light trespass;
 - f. A general lighting curfew calling for outdoor lighting to be extinguished within one hour of sunset with exemptions of (1) businesses relating to their business hours, and (2) lighting in certain public safety-related applications on the condition that such lighting is controlled by motion sensors with maximum 5-minute trigger durations. Lighting is allowed to come on again one hour before sunrise. Conditional uses may be subject to stricter standards.
 - g. Restrictions on nighttime illumination of flags; and
 - h. Adherence of lighting of service station canopies to IES minimum illuminance recommendations.
42. §16.21.16(I) (Lighting Standards): Specific requirements for street lighting formerly listed here are moved to the new §16.21.16(J)(4).
43. §16.21.16(J) (Public Lighting): New subsection added with provisions applying only to County-owned lighting as follows:
- a. Warranting of all new lighting installations;
 - b. 10pm curfew (street lighting excepted), with lighting allowed to come back on one hour before sunrise;
 - c. A requirement that all new installation of County-owned lighting make use of adaptive controls (street lighting excepted); and
 - d. Certain standards for street lighting formerly appearing in §16.21.16(I).
44. §16.21.16(K) (Temporary Lighting): New subsection establishing a process for formally permitting lighting used in temporary installations with requirements as follows:
- a. A 30-day limit on temporary installations subject to one 30-day renewal;

- b. Conversion of temporary status to permanent lighting for any permitted lighting persisting beyond 60 days; and
 - c. Required contents of permits for temporary lighting, granting the Planning Director the authority to request additional information as needed to enable proper evaluation of applications.
45. §16.21.16(L) (Architectural and Landscape Lighting): New subsection added with provisions applying only to non-residential lighting used to illuminate architectural and landscape features for aesthetic purposes with requirements as follows:
- a. Applicability of the curfew requirement and light trespass prohibition in §16.21.16(I);
 - b. Allowance of unshielded lighting provided the light is completely captured on surfaces and emitted directly into the night sky;
 - c. Additional elements for plan submission include "information on the construction materials of illuminated surfaces, their colors and finishes"; and
 - d. A surface luminance limit of 27 candelas per square meter (cd/m^2) on illuminated architectural surfaces. A procedure for measuring luminances of illuminated surfaces is specified that intends to minimize measurement uncertainties and the influence of Lambert's Cosine Law on luminances measured at large angles with respect to the direction perpendicular to illuminated surfaces.
 - e. Allowance of landscape lighting subject to (1) a limit of 10 lumens per vertical foot of the tree or landscaping, and (2) landscape lighting may not exceed 1,000 lumens per improved acre (noting further that this does not constitute an allowance beyond the 50,000 lumen per improved acre figure in subsection I, item 3(c).)
46. §16.15.25(F)(6) (Construction Specifications): Adds additional constraints on the use of illuminated signs consisting of the following:
- a. Adherence to all requirements of §16.21.16;
 - b. Exemption of internally illuminated signs from the full shielding requirement of §16.21.16(I)(2);
 - c. A luminance limit of 40 candelas per square meter during the overnight hours, measured according to the procedure delineated in §16.21.16(L)(3); and
 - d. Lighting is to be fully extinguished from the end of usual business hours to one hour before sunrise the following morning.